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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 178008

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 17, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on December 6, 2016, by telephone.

The issue for determination is whether the agency correctly determined a reduction in petitioner's FS allotment due to increased income as a result of petitioner's father living with him.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kristin P. Fredrick  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. The petitioner has been a recipient of FS since June 27, 2016.



2. On October 27, 2016 the petitioner completed a Six Month Reporting Form (SMRF) that identified his father was living with him. Petitioner checked the box “Yes” to the question “Does this person purchase, prepare or share food with you?”
3. On November 7, 2016, the county agency sent the petitioner an About Your Benefits notice that advised petitioner his monthly FS allotment would decrease effective December 1, 2016 due to the inclusion of his father’s social security retirement income in the FS budget.
4. At the hearing the petitioner testified that he made a mistake checking the box on the SMRF that he purchased, prepared or shared food with his father. The petitioner denied purchasing/preparing/sharing meals with his father.

### **DISCUSSION**

Who must be considered a member of a FS household is set forth in federal law that can be found at 7 CFR §273.1(a) and (b). The same provisions may be found in the *FoodShare Wisconsin Handbook*, §3.3.1. One or more persons who live in the same household and purchase and prepare food together for home consumption are to be included in the same food unit. *FS Handbook*, §3.3.1.1. Also, generally see 7 CFR 273.1(a).

Examples of a food unit include:

- A person living alone.
- A group of persons living together who purchase and prepare meals together for home consumption.
- A person (or group of persons) living with others, but who usually purchases and prepares food for home consumption separately from the others.

Purchase and Prepare

People living together who:

- Share in the cost of purchasing food.
- Share in the preparation of food.
- Eat together.

*FS Handbook*, §3.3.1.1. All reported changes that cause an increase in the FS benefit, including the addition or removal of persons from the household, are effective the first of the month following the report month, if required verifications are timely received. *FS Handbook*, §6.1.3.3.

In the present matter, the petitioner completed a SMRF, which acknowledged that the petitioner’s father was living with him and that they purchased, prepared, or shared meals. However, once he learned that including his father in his FS household resulted in a decrease of his FS allotment, the petitioner disavowed the statement he made in the SMRF. At the hearing the petitioner denied that his father purchased, prepared or shared meals with him and instead asserted that he made a mistake on the SMRF. No additional evidence was submitted by the agency or the petitioner with regard to whether the petitioner and his father purchased, prepared or shared meals together. However, the error on the SMRF was admittedly due to the petitioner and not to the agency. It is incumbent upon the petitioner to accurately report information and changes to the agency, including the member(s) of petitioner’s household. *FS Handbook*, §6.1.3.3. Any changes reported by the petitioner will be effective the first of the month following the month verifications are received. *Id.*



### CONCLUSIONS OF LAW

The county agency correctly determined the amount of the petitioner's FS allotment based upon the information reported by the petitioner.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

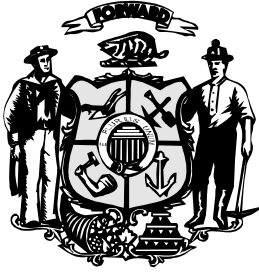
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 3rd day of January, 2017

\s \_\_\_\_\_  
Kristin P. Fredrick  
Administrative Law Judge  
Division of Hearings and Appeals





**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 3, 2017.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability